

**BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

IRA THEODORE BERKOWITZ
2432 Gatehouse Lane
Simi Valley, CA 93063
Certified Public Accountant Certificate No.
CPA 22918

Respondent.

Case No. AC-2007-29


OAH No. Unassigned

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, as its Decision in this matter.

This Decision shall become effective on April 28, 2008.

It is so ORDERED March 28, 2008.



FOR THE BOARD OF ACCOUNTANCY

387-001
Pleading

1 EDMUND G. BROWN JR., Attorney General
2 of the State of California
3 GLORIA A. BARRIOS
4 Supervising Deputy Attorney General
5 EARL R. PLOWMAN, State Bar No. 54339
6 Deputy Attorney General
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2536
Facsimile: (213) 897-2804

7 Attorneys for Complainant

8 **BEFORE THE**
9 **CALIFORNIA BOARD OF ACCOUNTANCY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

12 **IRA THEODORE BERKOWITZ**
13 2432 Gatehouse Lane
14 Simi Valley, CA 93063
Certified Public Accountant Certificate No.
CPA 22918

15 Respondent.

Case No. AC-2007-29

OAH Case No. Unassigned

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16
17
18 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the
19 above-entitled proceedings that the following matters are true:

20 **PARTIES**

21
22 1. Carol Sigmann (Complainant) is the Executive Officer of the California
23 Board of Accountancy. She brought this action solely in her official capacity and is represented
24 in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Earl R.
25 Plowman, Deputy Attorney General.

26 //

27 //

28 //

1 2. Respondent Ira Theodore Berkowitz (Respondent) is represented in this
2 proceeding by attorney Felix M. Martin, Esq. whose address is:

3 **Felix M. Martin, Attorney at Law**
4 **300 S. State Street, Suite 520**
5 **Redlands, CA. 92373**

6 3. On or about April 23, 1976, the California Board of Accountancy issued
7 Certified Public Accountant Certificate No. CPA 22918 to Ira Theodore Berkowitz
8 (Respondent). Said certificate was at all times relevant herein in full force and effect and has
9 been renewed through the licensing period ending November 30, 2008.

10 **JURISDICTION**

11 4. Accusation No. AC-2007-29 was filed before the California Board of
12 Accountancy, Department of Consumer Affairs, State of California on May 15, 2007, and is
13 currently pending against Respondent. The Accusation and all other statutorily required
14 documents were properly served on Respondent on June 15, 2007. Respondent timely filed his
15 Notice of Defense contesting the Accusation. A copy of Accusation No. AC-2007-29 is attached
16 as exhibit A and incorporated herein by reference.

17 **ADVISEMENT AND WAIVERS**

18 5. Respondent has carefully read, fully discussed with counsel, and
19 understands the charges and allegations in Accusation No. AC-2007-29. Respondent has also
20 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
21 Settlement and Disciplinary Order.

22 6. Respondent is fully aware of his legal rights in this matter, including the
23 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
24 counsel at his own expense; the right to confront and cross-examine the witnesses against him;
25 the right to present evidence and to testify on his own behalf; the right to the issuance of
26
27
28

1 subpoenas to compel the attendance of witnesses and the production of documents; the right to
2 reconsideration and court review of an adverse decision; and all other rights accorded by the
3 California Administrative Procedure Act and other applicable laws.

4
5 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
6 each and every right set forth above and agrees that the accusation matter now pending before the
7 Board may be finally resolved by this stipulation and order.

8
9 **CULPABILITY**

10 8. Respondent admits the truth of each and every charge and allegation in
11 Accusation No. AC-2007-29.

12
13 9. Respondent agrees that his Certified Public Accountant Certificate is
14 subject to discipline and he agrees to be bound by the California Board of Accountancy's
15 imposition of discipline as set forth in the Disciplinary Order below.

16
17 **CONTINGENCY**

18 10. The parties understand and agree that facsimile copies of this Stipulated
19 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
20 force and effect as the originals.

21
22 11. In consideration of the foregoing admissions and stipulations, the parties
23 agree that the California Board of Accountancy may, without further notice or formal proceeding,
24 issue and enter the following Disciplinary Order:

25 //

26 //

27 //

28 //

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Certified Public Accountant Certificate No. CPA 22918 issued to Respondent Ira Theodore Berkowitz (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. **Obey All Laws.** Respondent shall obey all federal, California, other states' and local laws, including those rules relating to the practice of public accountancy in California.

2. **Submit Written Reports.** Respondent shall submit, within ten (10) days of completion of the quarter, written reports to the Board on a form obtained from the Board. The Respondent shall submit, under penalty of perjury, such other written reports, declarations, and verification of actions as are required. These declarations shall contain statements relative to Respondent's compliance with all the terms and conditions of probation. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

3. **Personal Appearances.** Respondent shall, during the period of probation, appear in person at interviews/meetings as directed by the Board or its designated representatives, provided such notification is accomplished in a timely manner.

4. **Comply With Probation.** Respondent shall fully comply with the terms and conditions of the probation imposed by the Board and shall cooperate fully with representatives of the California Board of Accountancy in its monitoring and investigation of the Respondent's compliance with probation terms and conditions.

5. **Practice Investigation.** Respondent shall be subject to, and shall permit, practice investigation of the Respondent's professional practice. Such a practice investigation shall be conducted by representatives of the Board, provided notification of such review is accomplished in a timely manner.

6. **Comply With Citations.** Respondent shall comply with all final orders resulting from citations issued by the Board of Accountancy.

1 7. **Tolling of Probation For Out-of-State Residence/Practice.** In the event
2 Respondent should leave California to reside or practice outside this state, Respondent must
3 notify the Board in writing of the dates of departure and return. Periods of non-California
4 residency or practice outside the state shall not apply to reduction of the probationary period, or
5 of any suspension. No obligation imposed herein, including requirements to file written reports,
6 reimburse the Board costs, or make restitution to consumers, shall be suspended or otherwise
7 affected by such periods of out-of-state residency or practice except at the written direction of the
8 Board.

9 8. **Cost Reimbursement.** Respondent shall reimburse the California Board
10 of Accountancy \$8,531.30 (eight thousand five hundred thirty-one dollars and thirty cents) for
11 its investigation and prosecution costs. The payment shall be made within thirty (30) days of the
12 date the Board's decision is final. In the alternative, Respondent may elect to make either monthly
13 or quarterly payments to the Board until the amount due and owing is satisfied. Respondent shall
14 complete payment of the Board's costs not later than six (6) months prior to the end of his three
15 year probation. If Respondent elects to make either thirty (30) monthly payments or ten (10)
16 quarterly payments, he shall notify the Board of his choice within thirty (30) days of the date the
17 Board's decision is final and, in the case of monthly payments, submit his first payment.
18 Monthly payments shall be due not later than the 10th day of the month. Quarterly payments shall
19 be submitted with the written report required to be filed by Respondent in Probation Condition 2.


20
21 9. **Violation of Probation.** If Respondent violates probation in any respect,
22 the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation
23 and carry out the disciplinary order that was stayed. If an accusation or a petition to revoke
24 probation is filed against Respondent during probation, the Board shall have continuing
25 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
26 is final.

27 10. **Completion of Probation.** Upon successful completion of probation,
28 Respondent's license will be fully restored

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Felix M. Martin. I understand the stipulation and the effect it will have on my Certified Public Accountant Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the California Board of Accountancy.

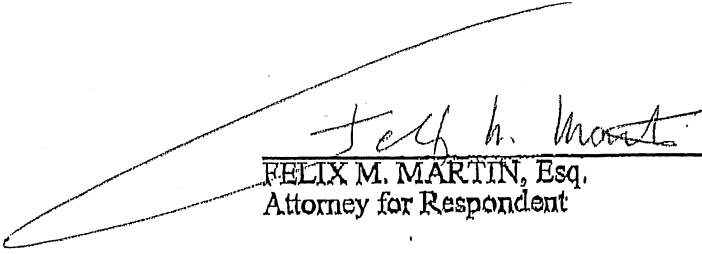
DATED: 1/14/08


IRA THEODORE BERKOWITZ,
CERTIFIED PUBLIC ACCOUNTANT
Respondent

I have read and fully discussed with Respondent Ira Theodore Berkowitz the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 1/15/08

LAW OFFICE OF FELIX M. MARTIN


FELIX M. MARTIN, Esq.
Attorney for Respondent

JAN-11-2008 15:56

ATTY GENERAL OFFICE

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the California Board of Accountancy.

DATED: February 4, 2008

EDMUND G. BROWN JR., Attorney General
of the State of California

GLORIA A. BARRIOS
Supervising Deputy Attorney General



EARL R. FLOWMAN
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: LA2007600216
60264818.wpd

Exhibit A

Accusation No. AC-2007-29

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 EARL R. PLOWMAN, State Bar No. 54339
Deputy Attorney General
4 California Department of Justice
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2536
6 Facsimile: (213) 897-2804

7 Attorneys for Complainant

8 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. AC-2007-29

12 IRA THEODORE BERKOWITZ
2432 Gatehouse Lane
13 Simi Valley, CA 93063
Certified Public Accountant Certificate No. CPA
14 22918

OAH No.

A C C U S A T I O N

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Carol Sigmann (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Officer of the California Board of Accountancy, Department of
21 Consumer Affairs.

22 2. On or about April 23, 1976, the California Board of Accountancy issued
23 Certified Public Accountant Certificate Number CPA 22918 to Ira Theodore Berkowitz
24 (Respondent). Said certificate has been regularly and continuously renewed from issuance and is
25 currently in full force and effect through the licensing period ending November 30, 2008.

26 //

27 //

28 //

JURISDICTION

3. This Accusation is brought before the California Board of Accountancy, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 5100 states:

"After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

....

"(h) Suspension or revocation of the right to practice before any governmental body or agency."

5. Section 5063 states:

"(a) A licensee shall report to the board in writing of the occurrence of any of the following events occurring on or after January 1, 1997, within 30 days of the date the licensee has knowledge of these events:

....

"(3) The cancellation, revocation, or suspension of the right to practice as a certified public accountant before any governmental body or agency."

....

6. Section 5107, subdivision (a) of the Code states:

"The executive officer of the board may request the administrative law judge, as part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or certificate found to have committed a violation or violations of this chapter to pay to the board all reasonable costs of investigation and prosecution of the case, including, but not limited to, attorneys' fees. The board shall not recover costs incurred at the administrative hearing."

1 FIRST CAUSE FOR DISCIPLINE

2 **(Suspension or Revocation of the Right to Practice Before Governmental Body or Agency)**

3 7, Respondent is subject to disciplinary action for unprofessional conduct
4 under section 5100(h) of the Business and Professions Code in that his right to practice before a
5 governmental agency was suspended. The circumstances of said violation are as follows:

6 a. On or about January 9, 2006, Respondent's right to practice before the
7 Internal Revenue Service (IRS), an agency of the government of the United States, was
8 indefinitely suspended pursuant to Title 31, Code of Federal Regulations, Part 10.

9
10 SECOND CAUSE FOR DISCIPLINE

11 **(Failure to Notify the Board)**

12 4. Respondent is subject to disciplinary action under sections 5100 and 5063,
13 subdivisions (a)(3), of the Business and Professions Code for unprofessional conduct, in that
14 Respondent failed to notify the Board of his indefinite suspension from practice before the
15 Internal Revenue Service on January 9, 2006 as set forth hereinabove in paragraph 7. The
16 circumstances of said violation are as follows:

17 a. On or after May 1, 2006, an employee of the California Board of
18 Accountancy reviewed the list of persons suspended by the IRS from practice before that agency.
19 Said list was contained in IRS Bulletin No. 2006-18, published May 1, 2006.

20 b. Said review disclosed that Respondent was on the list, and that he had
21 been indefinitely suspended from practice before the IRS on January 9, 2006.

22 c. Respondent failed to notify the Board within 30 days from January 9,
23 2006, the effective date of the indefinite order of suspension from practice before the IRS, that he
24 had been suspended from practice before that agency pursuant to Title 31, Code of Federal
25 Regulations, Part 10.

26 //

27 //

28 //

1 PRAYER

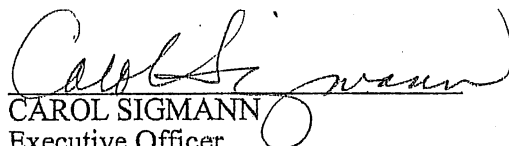
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board issue a decision:

4 1. Revoking, suspending, or otherwise imposing discipline upon Certified
5 Public Accountant License No. 22918, issued to Ira Theodore Berkowitz;

6 2. Ordering Ira Theodore Berkowitz to pay the California Board of
7 Accountancy the reasonable costs of the investigation and enforcement of this case, pursuant to
8 Business and Professions Code section 5107;

9 3. Taking such other and further action as deemed necessary and proper.

10
11 DATED: May 15, 2007

12
13 
14 CAROL SIGMANN
15 Executive Officer
16 California Board of Accountancy
17 Department of Consumer Affairs
18 State of California
19 Complainant

20 LA2007600216

21 60212867.wpd
22 (rev.05/09/2007)